

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

PERRY VICKERS,

Plaintiff,

v.

1:23-CV-00527

**COMMISSIONER OF SOCIAL
SECURITY,**

Defendant.

**BRENDA K. SANNES,
Chief United States District Judge**

DECISION and ORDER

Before the Court is Plaintiff's request for an award of attorney's fees in the amount of \$1,006.92 and costs in the amount of \$402 incurred in this appeal of the Commissioner of Social Security's denial of Plaintiff's benefits. See *dk. # 12*. Plaintiff contends he is entitled to attorney's fees and costs pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. He contends that he was the prevailing party, that the government's litigation position was not substantially justified, that his net assets are worth less than \$2 million, and that the case has ended with a final order.

The Commissioner has no objection to Plaintiff's request for \$1,006.92 in attorney fees under the EAJA. See *dk. # 13*. The Commissioner also has no objection to Plaintiff's request for \$402.00 in costs. *Id.* The Commissioner indicates:

Plaintiff has not submitted an assignment of fees or requested that any awarded EAJA fees be paid to his attorney. See *Docket 12*. EAJA fees are "payable to the litigant and [are] subject to a Government offset to satisfy a pre-existing debt that the litigant owes the United States." *Astrue v. Ratliff*, 560 U.S. 586, 589 (2010); see *McAlpine v. Astrue*, No. 5:10-0817, 2012 WL

5183630, at *2 (N.D.N.Y. Oct. 18, 2012) (EAJA fees are payable to the litigant, not the attorney). If, at the time of the EAJA order, Plaintiff has agreed to assign any fees to his attorney and does not owe a debt to the government that is subject to offset, the Commissioner has no objection to paying fees directly to counsel.

Id.

Because Plaintiff has not submitted an assignment of fees or requested that any awarded EAJA fees be paid to his attorney, attorney's fees will be paid directly to Plaintiff subject to any government offset.

Conclusion

Having examined the parties' filings including Plaintiff's counsel's declaration in support of the application for attorney's fees, dkt. # 12-2, the Court finds that the fees sought are recoverable and reasonable. The Plaintiff's motion for attorney's fees and costs, dkt. # 12, is hereby **GRANTED**, as follows:

1. Attorney's fees are awarded to Plaintiff in the amount of \$1,006.92, with these fees subject to a Government offset to satisfy any pre-existing debt that the litigant might owe to the United States;
2. Costs are awarded to Plaintiff in the amount of \$402.

IT IS SO ORDERED.

Dated: June 3, 2024

A handwritten signature in black ink, reading "Brenda K Sannes". The signature is written in a cursive, flowing style. The first name "Brenda" is written in a larger, more prominent script, followed by "K" and "Sannes".

Brenda K. Sannes
Chief U.S. District Judge